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Docket No. UF-221C1XC1  
Serial No. 09/662,254Remarks

Claims 76-90 and 92-102 were pending in the subject application. By this Amendment, claims 76, 90, 94, 96, and 98 have been amended, and claims 86-87, 93, and 95 have been cancelled. The undersigned avers that no new matter is introduced by this amendment. Entry and consideration of the amendments presented herein is respectfully requested. Accordingly, claims 76-85, 88-90, 92, 94, and 96-102 are currently before the Examiner for consideration. Favorable consideration of the pending claims is respectfully requested.

The applicants wish to thank Examiner Wehbé for the courtesy of the telephonic interview conducted on February 12, 2003 with the undersigned concerning the enablement rejection under 35 U.S.C. §112, first paragraph. The remarks and amendments set forth herein are consistent with the substance of that interview and are believed to address the outstanding issues as discussed during the interview.

The applicants gratefully acknowledge the Examiner's withdrawal of the rejection of claims 101 and 102 under 35 U.S.C. §102(e), and the obviousness-type double patenting rejection over U.S. Patent No. 6,106,825. The applicants also gratefully acknowledge the Examiner's indication that claims 101-102 are considered allowable in the subject application, and that claims 93, 94, 96, and 98 would be allowable if rewritten in independent form.

Claims 76-89 have been rejected under 35 U.S.C. §112, first paragraph, as non-enabled by the subject specification. The applicants respectfully submit that the claimed invention is fully enabled by the subject specification. However, by this Amendment, the applicants have amended claim 76 to lend greater clarity to the claimed subject matter and to expedite prosecution of the application to issuance. Claim 76 now recites that the polynucleotide encoding a protein is introduced into the vertebrate cell *in vitro*. Support for this amendment can be found throughout the subject specification and claims as originally filed. Claims 86 and 87 have been cancelled. Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection set forth under 35 U.S.C. §112, first paragraph.

Claims 90, 92, 95, and 97 have been rejected under 35 U.S.C. §102(e) as being anticipated by Dall *et al.* (U.S. Patent No. 5,762,924). The applicants respectfully submit that the Dall *et al.* patent does not teach or suggest the entomopoxvirus vectors of the claimed invention. However, by this

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Amendment, the applicants have amended claims 90, 94, 96, and 98 to lend greater clarity to the claimed subject matter and to expedite prosecution of the subject application to issuance. Claims 93-94, 96, and 98 have been objected to as being dependent upon a rejected base claim. Claim 90 has been amended to recite the subject matter of claim 93, *i.e.*, that the recombinant entomopoxvirus vector comprises inverted terminal repeat sequences. Claim 94 has been amended to depend from claim 90, instead of claim 93. Dependent claims 96 and 98 have been amended to be independent claims, reciting the subject matter of any base claims and intermediate claims from which they depended. Claims 93 and 95 have been cancelled.

Accordingly, in view of the foregoing remarks and amendments to the claims, reconsideration and withdrawal of the rejection set forth under 35 U.S.C. §102(e) is respectfully requested.

In view of the foregoing remarks and amendments to the claims, the applicants believe that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 or 1.17 as required by this paper to Deposit Account 19-0065.

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The applicants invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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Attachment: Marked-Up Version of Amended Claims

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**Marked-Up Version of Amended Claims****Claim 76 (Amended three times):**

A method for delivering a polynucleotide encoding a protein to a vertebrate cell, said method comprising introducing into said vertebrate cell *in vitro* a recombinant entomopoxvirus vector, wherein said recombinant entomopoxvirus vector comprises ~~comprising~~ said polynucleotide operably linked with a heterologous early poxvirus promoter sequence or a non-poxvirus promoter sequence, thereby delivering and expressing said polynucleotide encoding said protein in said vertebrate cell.

**Claim 90 (Amended Four Times):**

A recombinant entomopoxvirus vector comprising a polynucleotide encoding a protein operably linked with a non-poxvirus promoter sequence; and inverted terminal repeat sequences flanking said polynucleotide, wherein said non-poxvirus promoter sequence is activated by the cellular RNA polymerase of a vertebrate cell.

**Claim 94 (Amended):**

The vector according to ~~claim 93~~ claim 90, wherein said inverted terminal repeat sequences are derived from adeno-associated virus.

**Claim 96 (Amended Three Times):**

~~The vector according to claim 95, wherein said non-poxvirus promoter sequence is selected from the group consisting of CMV and herpes TK.~~ A recombinant entomopoxvirus vector comprising a polynucleotide encoding a protein operably linked with a CMV promoter sequence or herpes TK promoter sequence, wherein said CMV promoter sequence or herpes TK promoter sequence is activated by the cellular RNA polymerase of a vertebrate cell and is capable of driving expression of said polynucleotide.

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Claim 98 (Amended):

The vector according to claim 90, A recombinant entomopoxvirus vector comprising a polynucleotide encoding a protein operably linked with a non-poxvirus promoter sequence, wherein said non-poxvirus promoter sequence is activated by the cellular RNA polymerase of a vertebrate cell, and wherein said polynucleotide encoding said protein is greater than about 10 kb in size.

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